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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/733,717

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Donald W. Kendrick

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7590

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EXAMINER

NDUBIZI, CHUKA CLEMENT

ART UNIT

PAPER NUMBER

3743

MAIL DATE

DELIVERY MODE

01/20/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/733,717

Applicant(s)

KENDRICK, DONALD W.

Examiner

CHUKA C. NDOBUIZU

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 6, 7 and 9-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's amendment filed on November 6 2009 is hereby acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

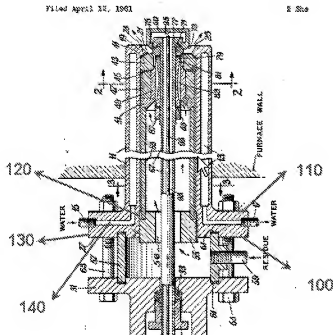
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Stone 3,074,648. Stone teaches the invention as claimed (fig 1).

With regard to claim 1 Stone discloses **an apparatus comprising: a mounting flange 27 for coupling the apparatus to the upstream conduit 67 (see fig 1) and having:** (see a reproduction of part of Stone's fig 1 below with additional labelling) **upstream 100 and downstream 110 faces; an interior surface 120 bounding a central aperture; an outboard perimeter 130 having at least one cooling fluid inlet 15 ; at least one radially extending passageway through the flange 140 in communication with the at least one cooling fluid inlet 15; and an array of bolt holes between the upstream and downstream faces** (where bolt 63 goes through on 27); **a conduit 13, in communication with the at least one radially extending passageway, extending downstream from the flange (see fig 1) and having: inner and outer walls along at least a portion of a length (see fig 1); and a space 13**

between the inner and outer walls for carrying a cooling fluid, and a cooling fluid outlet 17.



In claim 1 the recitation "an apparatus for directing a gas from upstream conduit through a vessel wall for cleaning surfaces within the vessel" is given little patentable weight because this recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951) MPEP 2111.02 ii..

With regard to claim 1 the recitations **"conduit delivering the gas"** it is inherent that conduit 67 is capable of delivering gas.

With regard to claim 2 Stone also discloses **wherein the space extends from an upstream end outside the vessel wall at least partially downstream within the wall** (see fig 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable Schueler et al 2,904,260 in view of Stone Schueler teaches the invention as claimed (fig 1-4), an apparatus for directing a gas from an upstream conduit through a vessel wall for cleaning surfaces within the vessel comprising at least one cooling fluid inlet 40, at least a radially extending passageway in communication with at least one cooling fluid inlet (see fig 1), a conduit (between 30 and 44, see fig 2), in communication with the at least one radially extending passageway (leading to 46, see fig 1), extending downstream (see fig 1) and having: inner 30 and outer 44 walls along at least a portion of a length (see fig 1); and a space between the inner and outer walls for carrying a cooling fluid (column 2 lines 64-67), and a cooling fluid outlet 38.

With regard to claim 1 Stone (solving the same problem of cooling a nozzle in a furnace) teaches **a mounting flange 27 for coupling the apparatus to the upstream conduit 67** (see fig 1), (see part of Stone's fig 1 below) **having upstream 100 and downstream 110 faces; an interior surface 120 bounding a central aperture; an**

outboard perimeter 130 having at least one cooling fluid inlet 15 ; at least one radially extending passageway through the flange 140 in communication with the at least one cooling fluid inlet 15; and an array of bolt holes between the upstream and downstream faces (where bolt 63 goes through on 27).

With regard to claim 1 the recitations **“conduit delivering the gas”** it is inherent that conduit 67 is capable of delivering gas.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Schueler's apparatus by including a flange to house the cooling fluid inlet in order to provide a stable means of securing the cooling fluid inlet to the rest of the structure and at the same time make it easy to connect and disconnect the cooling fluid inlet.

With regard to claim 2 Schueler also discloses wherein the space extends from an upstream end outside the vessel wall at least partially downstream within the wall (see fig 1).

With regard to claim 3 Schueler also discloses wherein: the cooling fluid outlet is along the conduit (38 is along the conduit, see fig 2).

With regard to claim 4 Schueler also discloses wherein the inner and outer walls each have a downstream rim (near 38 fig 2); and the cooling fluid outlet 38 is between the inner and outer walls (fig 2).

With regard to claim 5 Schueler also discloses wherein: the inner wall is essentially formed by a first tubular piece 30 extending from an upstream rim (junction

with 28) to a downstream rim (near 38) and having interior and exterior surfaces (tube has both surfaces), along an upstream portion.

With regard to claim 5 Stone also teaches the exterior surface (of tube 53) contacting the flange interior surface 120 (see fig 1).

With regard to claim 8 Schueler also discloses a soot blower nozzle comprising, a surface (inner surface of 30) for guiding gas from the soot blower gas conduit into the interior of the vessel; one cooling fluid inlet 46 in communication with at least one passageway extending radially inward therefrom to supply cooling flow to the surface (see fig 1), an upstream soot blower gas conduit 28.

With regard to claim 8 Stone also teaches a flange for mounting the nozzle 11 to an upstream conduit 67 (fig 1) wherein the flange includes at least one cooling fluid inlet 15 in communication with at least one passageway 140 extending radially inward therefrom to supply cooling flow (column 3 lines 67-68).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Schueler's apparatus by including a flange for housing the cooling fluid inlet in order to provide a stable means of securing the cooling fluid inlet to the rest of the structure and at the same time make it easy to connect and disconnect the cooling fluid inlet.

Response to Arguments

Applicant's arguments, see p.11, filed on November 6 2009 with respect to the 112 rejections have been fully considered and are persuasive. The 112 rejections of claims 1-5 have been withdrawn.

Applicant's arguments with respect to the rejection of claims 1-5 and 8 have been considered but are moot in view of the new ground(s) of rejection. Stone and also Schueler in view of Stone disclose all the limitations of the claims as discussed in the rejections.

After due consideration it is determined that Applicant's claims do not distinguish Applicant's invention over the prior art of record.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUKA C. NDUBIZU whose telephone number is (571)272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chuka C Ndubizu/
Examiner, Art Unit 3743

/Kenneth B Rinehart/
Supervisory Patent Examiner, Art
Unit 3743

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